

1 Anna Y. Park, CA SBN 164242  
2 Sue Noh, CA SBN 192134  
3 Rumduol Vuong, CA SBN 264392  
4 U.S. EQUAL EMPLOYMENT  
5 OPPORTUNITY COMMISSION  
6 255 East Temple Street, Fourth Floor  
7 Los Angeles, CA 90012  
8 Telephone: (213) 894-1083  
9 Facsimile: (213) 894-1301  
10 E-Mail: [lado.legal@eeoc.gov](mailto:lado.legal@eeoc.gov)

11 Elizabeth A. Naccarato, NV BAR #11221  
12 U.S. EQUAL EMPLOYMENT  
13 OPPORTUNITY COMMISSION  
14 333 Las Vegas Boulevard South, Suite 8112  
15 Las Vegas, Nevada 89101  
16 Telephone: (702) 388-5072  
17 Facsimile: (702) 388-5094

18 Attorneys for Plaintiff  
19 U.S. EQUAL EMPLOYMENT  
20 OPPORTUNITY COMMISSION

21 **UNITED STATES DISTRICT COURT**  
22 **DISTRICT OF NEVADA**

23 U.S. EQUAL EMPLOYMENT  
24 OPPORTUNITY COMMISSION,

25 Plaintiff,

26 vs.

27 BANK OF AMERICA CORPORATION, and  
28 Does 1-10 Inclusive,

Defendants.

Case No.:

**COMPLAINT—CIVIL RIGHTS**

- **Americans with Disabilities Act of 1990 [42 U.S.C. § 12101 et seq.]**

**JURY TRIAL DEMAND**

**NATURE OF THE ACTION**

This is an action under Title I of American with Disabilities Act of 1990 (“ADA”), as amended, and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of disability and to provide appropriate relief to Melchora Lee, the Charging Party,

1 who was adversely affected by such practices. As alleged with greater particularity in  
2 Paragraphs 13 – 19 below, Plaintiff U.S. Equal Employment Opportunity Commission  
3 (“EEOC”) alleges that Defendant Bank of America Corporation, and DOES 1-10  
4 (“Defendants”) denied Charging Party Melchora Lee a reasonable accommodation and  
5 subjected her to adverse employment actions on the basis of her disability in violation of  
6 Section 102 of the ADA, 42 U.S.C. § 12112.

### 7 **JURISDICTION AND VENUE**

8 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337,  
9 1343 and 1345. This action is authorized and instituted pursuant to § 107(a) of the ADA, 42  
10 U.S.C. §12117(a), which incorporates by reference §§ 706(f)(1) and (3) of Title VII of the Civil  
11 Rights Act of 1964 (“Title VII”), 42 U.S.C. §§ 2000e-5(f)(1) and (3) and pursuant to § 102 of  
12 the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

13 2. The employment practices alleged to be unlawful were committed within the  
14 jurisdiction of the United States District Court for the District of Nevada.

### 15 **PARTIES**

16 3. Plaintiff, the U.S Equal Employment Opportunity Commission (“EEOC” or the  
17 “Commission”), is the agency of the United States of America charged with the administration,  
18 interpretation and enforcement of Title I of the ADA and is expressly authorized to bring this  
19 action by § 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference §  
20 706(f)(1) of Title VII, 42 U.S.C. § 2000e-5(f)(1).

21 4. At all relevant times, Defendant Bank of America Corporation (“Defendant” or  
22 “Bank of America”) has continuously been a doing business in Las Vegas, State of Nevada, and  
23 continuously had at least 15 employees.

24 5. At all relevant times, Defendant has continuously been an employer engaged in  
25 an industry affecting commerce within the meaning of § 101(5) of the ADA, 42 U.S.C. §  
26 12111(5), and § 101(7) of the ADA, 42 U.S.C. § 12111(7), which incorporates by reference §§  
27 701(g) and (h) of Title VII, 42 U.S.C. §§ 701(g) and (h) of Title VII, 42 U.S.C. §§ 2000e(g) and  
28 (h).

8. Plaintiff is ignorant of the true names and capacities of each defendant sued as DOES 1 through 10, inclusively, and therefore Plaintiff sues said defendants by fictitious names. Plaintiff reserves the right to amend the complaint to name each DOE defendant individually or corporately as it becomes known. Plaintiff alleges that each DOE defendant was in some manner responsible for the acts and omissions alleged herein and Plaintiff will amend the complaint to allege such responsibility when the same shall have been ascertained by Plaintiff.

9. More than thirty (30) days prior to the institution of this lawsuit, Melchora Lee filed a charge of discrimination with the Commission alleging that Defendant violated the ADA.

11. Prior to the institution of this lawsuit, the Commission's representatives attempted to eliminate the unlawful employment practices alleged below and to effectuate Defendant's voluntary compliance with Title I of the ADA through informal methods of

1 conciliation, conference, and persuasion.

2 12. Prior to the institution of this lawsuit, all conditions precedent were satisfied.

3 **STATEMENT OF CLAIMS**

4 13. Melchora Lee is disabled within the meaning of the ADA due to having an actual  
5 impairment (deafness), record of such impairment, and regarded as disabled. Charging Party's  
6 primary language is American Sign Language ("ASL"). Due to her impairment, Charging Party  
7 has been substantially limited in several major life activities, including but not limited to  
8 hearing.

9 14. Since at least 2003, Defendant have engaged in unlawful employment practices  
10 in violation of § 102 (a) and (b), 42 U.S.C. § 12112 (a) and (b). More specifically, Defendants  
11 discriminated against Melchora Lee on the basis of disability when Defendant failed to provide  
12 her a reasonable accommodation, disciplined and discharged her due to her disability.

13 15. In 1998, Charging Party Melchora Lee began working as a cashier for  
14 Defendant. Within a year of her employment, Charging Party was transferred to the position of  
15 Cash Services Representative, which she worked until her termination in 2010.

16 16. From 1990 to 2003, Charging Party was supervised by a manager who could  
17 communicate with her in ASL.

18 17. Beginning in 2003 until her termination in September 2010, Charging Party was  
19 supervised by different managers who could not communicate through ASL. During this time,  
20 Charging Party requested on multiple occasions that Defendant provide her with an ASL  
21 interpreter.

22 18. Despite Charging Party's requests, Defendant failed to engage in the interactive  
23 active process and did not provide Charging Party with a reasonable accommodation.

24 19. As a consequence of Defendant's failure to accommodate Charging Party,  
25 Charging Party's performance suffered, resulting in several disciplines and her termination  
26 September 2010.

27 20. The effect of the practices complained of as described in paragraphs 13 through  
28 19 have been to deprive Charging Party Melchora Lee of equal employment opportunities.

22. The unlawful employment practices complained of above were done with malice or with reckless indifference to Charging Party's federally protected rights.

### PRAYER FOR RELIEF

A. Grant a permanent injunction enjoining Defendants, their officers, successors, assigns, and all persons in active concert or participation with each of them, from engaging in any employment practices which discriminate on the basis of disability.

C. Order Defendants to make whole Charging Party Melchora Lee by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to rightful place reinstatement or front pay.

E. Order Defendants to make Charging Party Melchora Lee whole by providing compensation for non-pecuniary losses resulting from the unlawful employment practices described above in amounts to be determined at trial. The non-pecuniary losses include emotional pain, suffering, inconvenience, mental anguish, humiliation and loss of enjoyment of life, in amounts to be determined at trial.

1 F. Award the Commission its costs of this action.

2 G. Grant such further relief as the Court deems necessary and proper in the public  
3 interest.

4 **JURY TRIAL DEMAND**

5 The Commission requests a jury trial on all questions of fact raised by its complaint.  
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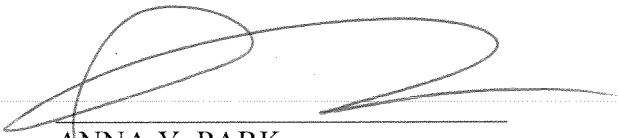
8 P. DAVID LOPEZ  
9 General Counsel

10 JAMES LEE  
11 Deputy General Counsel

12 GWENDOLYN YOUNG REAMS  
13 Associate General Counsel

14 U.S. EQUAL EMPLOYMENT  
15 OPPORTUNITY COMMISSION  
16 131 "M" Street, NE.  
17 Washington, D.C. 20507

18 Dated: September 24, 2013

19   
20 ANNA Y. PARK  
21 Regional Attorney

22 U.S. EQUAL EMPLOYMENT  
23 OPPORTUNITY COMMISSION  
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